

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE NINETEENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

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WRIT PETITION NO : 14713 of 2004

Between:

Sheelam Laxmaiah, S/o. Somaiah, Occ: Business,
Village & Mandal, Nellikuduru, Warangal District.

..... PETITIONER

AND

- 1 The District Panchayat Officer (FAC), Warangal, Warangal District.
- 2 The Station House Officer, Nellikudur Mandal & Village, Warangal District.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, Order or Direction more particularly one in the nature of Writ of Mandamus declaring the action of the 1st respondent in issuing the impugned Notice in Memo No. 2303/04/A4 Dated 07-08-2004 in directing the 2nd Respondent to take necessary action in the matter as per Rules under Section 139 of A.P. Panchayat Raj Act, 1964 to recover the alleged encroachment by the petitioner to an extent of 34.33 square yards of the land of Government High School, Nellikudur as arbitrary, illegal, un-just, contrary to law, without jurisdiction, without notice contrary to provisions of the A.P. Panchayat Raj Act and also violative of Articles 14, 21 and 300(A) of the Constitution of India and consequently set-aside the same.

Counsel for the Petitioner: MR.P.SRIDHAR RAO

Counsel for the Respondents: GP FOR PANCHAYAT RAJ & RURAL DEV.

The Court at the stage of admission made the following ORDER:

Heard the learned counsel for the petitioner and the learned Government Pleader for Panchayat Raj appearing for the respondents.

On the complaint made by one Sri P.Narsaiah, Chairman, Vidya Committee, Nellikuduru, the first respondent-District Panchayat Officer, Warangal, by the impugned memo dated 07-08-2004 directed the Panchayat Secretary, Grampanchayat, Nellikudur, to recover the land to an extent of 34.33 square yards from the petitioner's possession, which is said to have been encroached by him, as per the rules in force. Hence, the present writ petition.

The impugned memo has been, prima facie, passed without issuing any notice to the petitioner. The very fact is that the Divisional Panchayat Officer, Mahabubabad, Mandal Parishad Development Officer, Nellikudur including the Panchayat Secretary, Grampanchayat, Nellikudur have to necessarily follow the due procedure before taking possession of the land of the petitioner i.e. the petitioner should be put on notice as to whether he has encroached into the land belonging to the Government High School or not. Only after due determination and spot inspection, if the authorities come to the conclusion that the petitioner has encroached into the land, then only, they can take possession of the property in question uninfluenced by

the direction issued by the first respondent.

With the above observation, the writ petition is disposed of. No costs.

19th August, 2004.

Note: c.c. in two days.

B/o

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To

- 1 The District Panchayat Officer (FAC), Warangal, Warangal District.
- 2 The Station House Officer, Nellikudur Mandal & Village, Warangal District.
- 3 Two CCs to the Government Pleader for Panchayat Raj and Rural Development, A.P.High Court Buildings, Hyderabad.(OUT)
- 4 Two CD copies.